



U.S. Department  
of Transportation  
**Research and  
Special Programs  
Administration**

MAR 18 2003

400 Seventh St., S.W.  
Washington, D.C. 20590

Mr. Philip C. Palilla  
President  
Q/C Resource  
16 Taunton Lake Road  
Newtown, CT 06470

Ref. No. 02-0294

Dear Mr. Palilla:

This responds to your November 6, 2002 letter requesting clarification on the retention of shipping papers under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request that an exception be granted for shipping sealed source radioactive materials in devices/gauges.

In your letter, you stated that your company ships portable sealed source radioactive materials in devices/gauges and that the shipping paper retention requirements under the HMR would adversely affect your company. You also stated that your company uses and maintains records required by the Nuclear Regulatory Commission (NRC) including shipping papers and daily records of shipments, etc. You also stated that you did not comment on the notice of proposed rulemaking or the final rule published in the Federal Register under Docket No. HM-207B, "Retention of Shipping Papers."

The requirement to retain hazardous materials shipping papers for one year has been a self-executing requirement under the Federal hazardous materials transportation law (Federal hazmat law) since August 1994. (See 49 U.S.C. § 5110(e)). The final rule published under Docket No. HM-207B (67 FR 46123) amended the HMR to require shippers and carriers to retain a copy of each hazardous material shipping paper, or an electronic image thereof, for a period of 375 days after the date the hazardous material is accepted by the carrier. The July 12, 2002 final rule incorporated into the HMR the statutory requirement from the Federal hazmat law.

After publication of the final rule on July 12, 2002, there was a 30-day period in which to file an appeal. We received five appeals to the final rule. On November 1, 2002, we published a final rule; response to appeals (67 FR 66571). In this response to appeals, we provided relief to the air and vessel modes of transportation, similar to that we provided to rail shipments regarding the date on the shipping paper. We removed the word "immediately" from the requirement to make copies of the shipping papers available to officials upon request. This response to appeals was effective on November 1, 2002, with voluntary compliance authorized as of August 12, 2002, the effective date of the final rule.



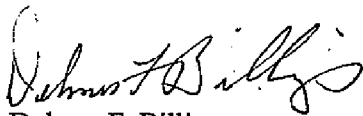
020294

172,201(e)

The final rule provides relief to those persons using a "permanent" shipping document to accompany a hazardous material shipment, e.g., gasoline or sealed source radioactive devices/gauges. When "permanent" shipping papers are used, we allow retention of daily shipping or inventory receipts instead of the same shipping paper on a daily basis. As stated in the final rule, we believe that retention, including electronic retention, of daily shipping or inventory receipts which are used in the normal course of business instead of the retention of the same shipping paper used for multiple daily shipments of the same hazardous material already provides adequate relief for companies.

I hope this answers your inquiry.

Sincerely,

A handwritten signature in cursive script, appearing to read "Delmer F. Billings".

Delmer F. Billings  
Chief, Standards Development  
Office of Hazardous Materials Standards

Q/C [REDACTED]  
**RESOURCE**

Boothe  
§ 172.201(e)  
Shipping Papers  
02-0294

Phone 800-996-8880  
Fax 203-426-6722

November 6, 2002

Office of Hazardous Materials  
US DOT  
Standards Dept.  
400 Seventh Street SW  
Washington, DC 20590

Re: Letter of Interpretation Requested  
[49 CFR 172.201(e)] - Retention of Shipping Papers, Hazardous  
Materials, HM-207B

To Whom it May Concern:

As an instructor of Radiation Safety Classes and 49 CFR 172 requirements for portable sealed source devices for 19 years, this new procedure will be a logistic / paperwork nightmare for thousands of companies that utilize these gauges. Although I heard this new regulation was initially mailed out for comment, I don't believe anyone in this industry of construction materials testing for density and moisture was informed of such proposals or realized the ramifications.

We are all aware of the need for tracking "Hazardous Materials" especially by commercial carriers, but these gauges are transported in company or personal vehicles, and also fall under the category of Type A Packages which are non-life endangering amounts of radioactive material. The individual licensees are already required by the USNRC and Agreement States to complete and keep on file daily inventory sheets of the destination and operator of each gauge along with the required shipping papers visible in the front seat. They include an Emergency Response Document and a properly completed Bill of Lading (presently the bill of lading in itself does not have to be date specific but must accurately describe the contents).

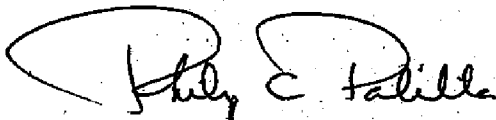
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Q/C [REDACTED]  
**RESOURCE**

Phone 800-996-8880  
Fax 203-426-6722

Individual companies in this industry can very easily have 5 to 30 gauges out on a daily basis working at "numerous" jobsites, whereas this new requirement for a record of EACH shipment and retained for 375 days is literally a nightmare. I implore you to modify this requirement through an exception for said devices and simultaneously be assured that the inventory procedures currently required still address the continuing need for control, safety and inventory.

Respectfully,

A handwritten signature in dark ink, appearing to read "Philip C. Palilla". The signature is fluid and cursive, with a large loop at the beginning and a distinct end.

Philip C. Palilla  
President  
Q/C Resource

16 Taunton Lake Road  
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